

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 7:20-CR-00240
)	
Plaintiff,)	CRIMINAL
)	
vs.)	McAllen, Texas
)	
DANIEL SEPULVEDA,)	Thursday, February 13, 2020
EVARISTO SEPULVEDA, III,)	
JUAN INDALECIO GARCIA,)	(10:14 a.m. to 11:32 a.m.)
)	
Defendants.)	

TESTIMONY OF SPECIAL AGENT CHRISTOPHER DONAHUE

BEFORE THE HONORABLE PETER E. ORMSBY,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: See next page

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5
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7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

<u>GOVERNMENT'S WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
CHRISTOPHER DONAHUE				
BY MS. PROFIT	5		59	
BY MR. SANCHEZ		21		62
BY MR. FALCON		32		63
BY MR. RAMIREZ		43		66

McAllen, Texas; Thursday, February 13, 2020; 10:14 a.m.

(Call to Order)

THE COURT: Okay, so I want to turn back to the case we were proceeding on the other day when the power went out. Hopefully, it will stay on here today.

This is Criminal Case Number M-20-240; United States versus Daniel Sepulveda.

If you could please come forward. And you can just have a seat at Counsel table with your attorney as we continue the hearing.

And then also, on the same case, Evaristo Sepulveda, III, and Juan Indalecio Garcia.

Let's see. Right. Just so Sepulvedas are sitting next to their attorney, it sounds probably fine. Thank you.

Okay, so we're at the point the Government was going to present some evidence.

Ms. Profit?

MS. PROFIT: Yes. The Government calls Special Agent Christopher Donahue, your Honor.

THE COURT: Okay, come forward, sir.

THE CLERK: Please raise your right hand.

SPECIAL AGENT CHRISTOPHER DONAHUE, GOVERNMENT'S WITNESS, SWORN

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1 **DIRECT EXAMINATION**

2 **BY MS. PROFIT:**

3 Q Could you state your name for the record?

4 A Christopher Donahue.

5 Q And where are you employed?

6 A The Drug Enforcement Administration, in McAllen, Texas.

7 Q And how long have you been with the Drug Enforcement
8 Administration?

9 A Approximately four and a half years.

10 Q And has it always been in McAllen, Texas?

11 A Yes, ma'am.

12 Q Now, are you involved in the investigation of Daniel
13 Sepulveda, Evaristo Sepulveda, and Juan Indalecio Garcia?

14 A I am.

15 Q And that's part of a larger drug trafficking organization,
16 correct?

17 A Correct, ma'am.

18 Q Could you identify, for the record, Daniel Sepulveda?

19 A Daniel Sepulveda is sitting at the Defense Counsel table.
20 He's wearing a green jacket.

21 **MS. PROFIT:** Would the record reflect he's identified
22 the Defendant Daniel Sepulveda.

23 **THE COURT:** Yes.

24 //

25 //

1 **BY MS. PROFIT:**

2 Q Could you identify, for the record, Evaristo Sepulveda?

3 A Evaristo Sepulveda is sitting at Defense Counsel table.
4 He's wearing a gray-colored sweatshirt.

5 **MS. PROFIT:** Would the record reflect he's identified
6 the Defendant Evaristo Sepulveda?

7 **THE COURT:** Yes, it will.

8 **BY MS. PROFIT:**

9 Q And could you identify the Defendant Juan Indalecio
10 Garcia?

11 A Yes. Juan Garcia is sitting at Defense Counsel table,
12 wearing a green-colored camouflage sweatshirt.

13 **MS. PROFIT:** Would the record reflect he's identified
14 the Defendant Juan Indalecio Garcia?

15 **THE COURT:** Yes, it will.

16 **BY MS. PROFIT:**

17 Q Could you explain, for purposes of this detention hearing,
18 the -- the Defendants are charged with a smuggling -- with
19 smuggling 320 kilograms of cocaine, correct?

20 A Yes.

21 Q And could you identify the weight of the evidence as to
22 each of these Defendants?

23 For example, Daniel Sepulveda, what was his role?

24 A So Daniel Sepulveda was identified as the driver of the
25 ATV that was transporting the 320 -- approximately 320

1 kilograms of cocaine.

2 Q And what did he do -- at some point in time, did he flee
3 to Mexico?

4 A Yeah. So following the failed smuggling attempt, my
5 agents observed Daniel Sepulveda drive the vehicle back towards
6 the Rio Grande River. They observed him crash down into the
7 river and then swim back into Mexico.

8 Q And what was Evaristo Sepulveda's role in this?

9 A So Evaristo Sepulveda was observed at 208 Midway Road.
10 Prior to the agents getting dropped off south of 208
11 Midway Road --

12 Q And when you say, "the agents," you're talking in terms of
13 border patrol agents?

14 A Yes. The two border patrol agents that were involved in
15 the seizure, ma'am.

16 So Evaristo was observed prior to the smuggling
17 event. And then immediately after the smuggling event, he was
18 observed leaving the residence and getting into a vehicle and
19 then driving to a barn approximately 30 yards away.

20 And then he was observed with a bag in his hand,
21 attempting to feed horses. That's what he told the border
22 patrol agent.

23 Q Now, he was -- he -- in terms of where Evaristo was, was
24 there a bundle of cocaine that was found in close proximity to
25 where Evaristo Sepulveda was?

1 A Yes. Where he was standing during the smuggling attempt,
2 he was approximately five to ten yards from the bundle of
3 cocaine.

4 And Juan Garcia was also in the same area, standing
5 right next to Evaristo Sepulveda, approximately five to ten
6 yards from a bundle of cocaine.

7 Q And if I remember correctly, were these individuals
8 attempting to feed the horses deer corn? Am I remembering that
9 correctly?

10 A No. The border patrol agent that encountered both
11 Evaristo Sepulveda and Juan Garcia, he wasn't able to tell what
12 kind of -- what was in the bag.

13 It just appeared to be a bag of corn.

14 Q And, now, in terms of these individuals -- so in terms of
15 the 320 kilograms of cocaine, when we talk in terms of the
16 weight of the evidence, we're talking in terms of observations
17 by border patrol agents, correct?

18 A Correct, ma'am.

19 Q And in addition to that, do we have any information from
20 cooperating individuals?

21 A Yes, ma'am. So we spoke to multiple sources of
22 information and cooperators that stated that Daniel Sepulveda
23 was involved in the 320 kilograms of cocaine that was seized by
24 border patrol agents.

25 Q And with respect to the other individuals, have they also

1 been identified by cooperating individuals?

2 A Yes.

3 Q And this is more than one cooperating individual?

4 A Yes.

5 Q Now, in addition to that, we've executed search warrants.

6 Have we retrieved certain information from various
7 phones identified as belonging to these individuals?

8 A Yes. So, on August 30, 2019, DEA, U.S. Border Patrol, and
9 Texas DPS executed a search warrant at Daniel Sepulveda's
10 residence, at 25 Midway Road.

11 During a search of that residence, we recovered one
12 cell phone -- or we actually recovered multiple cell phones
13 from Daniel Sepulveda's person.

14 In one of those phones, agents recovered text
15 messages between Daniel Sepulveda and Daniel Sepulveda's wife,
16 Ariana Sepulveda, on January 17th and January 18th, describing
17 a cocaine smuggling attempt.

18 Q And have we identified -- have we also seized cell phones
19 containing text messages that discuss other cocaine smuggling
20 attempts other than the ones involving -- other than the 320
21 kilograms of cocaine?

22 A Correct, ma'am. So in that same phone, there were several
23 messages between Daniel Sepulveda and Juan Garcia.

24 Juan Garcia was identified, in the text message from
25 between Daniel Sepulveda and Juan Garcia. A picture of Juan

1 Garcia is sent in the -- in the text message stream as well as
2 Juan Garcia's address.

3 In those text messages, agents identified
4 approximately ten suspected cocaine loads that were crossed
5 across Rio Grande River and into the Midway Road area, Rio
6 Grande -- Rio Grande City, Texas.

7 Q And this would involve Daniel Sepulveda and Juan Garcia?

8 A Yes, ma'am.

9 Q Now, in addition to these cocaine smuggling attempts that
10 are detailed in the cell phone records, in the text messages --
11 in addition to that, do we have any linkages to them to the
12 seizure of \$1,487,005 at 32 Midway Road?

13 A Yes. So on July 2, 2019, U.S. Border Patrol agents and
14 Texas DPS troopers seized \$1,487,005 from the -- the riverbank
15 area, on the Rio Grande River.

16 Daniel Sepulveda and Evaristo Sepulveda's cousins,
17 Manuel Sepulveda, was subsequently arrested in that currency
18 smuggling attempt.

19 Prior to, during, and afterwards, the smuggling
20 attempt agents observed an unusual amount of activity at the
21 parents' residence of Daniel and Evaristo Sepulveda.

22 Because of the amount of activity that was observed
23 at this residence, agents subsequently did a consensual
24 encounter at the residence and encountered Daniel Sepulveda and
25 Evaristo Sepulveda at that residence.

Donahue - Direct / By Ms. Profit

11

1 Q Now, when we -- a search warrant was conducted at Daniel
2 Sepulveda's residence on August 30, 2019.

3 How much cash was seized from that residence at that
4 time?

5 A I believe it was a little bit more than \$83,000.

6 Q And was there anything significant about the packaging of
7 that?

8 A The majority of the money was wrapped in Saran Wrap. It
9 was packaged like bulk drug proceeds and was hidden in a
10 drawer. Another large amount of money was in a backpack. And
11 it was bundled with rubber bands.

12 Q Now, at that time, did Daniel Sepulveda make any remarks
13 with respect to pole cameras?

14 A Yes. Towards the end of the search warrant, when I was
15 going over the items seized from the residence, in front of him
16 and his brother, Daniel Sepulveda made several remarks about
17 pole cameras that were located on Midway Road.

18 Daniel Sepulveda stated that he wanted agents to
19 take the cameras down. He stated that he knew they were DEA
20 cameras. We (indisc.) someone at the electric company, and
21 they told him that they were specifically DEA cameras.

22 And then his brother stated that it was against
23 their Constitutional rights to have law enforcement cameras on
24 Midway Road in the area of their -- their houses.

25 Q And did anything subsequently happen to that -- those pole

1 cameras?

2 A Yes. On that same evening, our pole cameras were shot out
3 and rendered inoperable.

4 Q And prior to their being rendered inoperable, was there
5 any observations with respect to Daniel Sepulveda?

6 A Yes. Agents conducting surveillance at Jose Luis'
7 secondary residence, at 39 Alegria Circle.

8 They observed Jose Luis Garcia show up to that
9 residence; they observed Daniel Sepulveda and Rene Sepulveda
10 show up to that residence.

11 Shortly after, they observed Jose Luis Garcia exit
12 the residence with a rifle case. This same ice -- rifle case
13 was observed on that same day, during a search warrant at that
14 residence, containing a firearm.

15 They observed Jose Luis Garcia get into his vehicle
16 with the rifle case. They observed everybody leave the
17 residence, including Daniel Sepulveda and Rene Sepulveda.

18 Approximately one hour later, our pole cameras were
19 rendered inoperable.

20 Q And when you say that they were rendered inoperable, have
21 you -- have the pole cameras subsequently been examined and an
22 determination made as to why they were inoperable?

23 A Yes. There is a pole cam -- pole camera located on a
24 pole -- electric pole maybe approximately 100 yards from Daniel
25 Sepulveda and Evaristo Sepulveda's residence.

1 Texas DPS rangers went out following the pole
2 cameras being shot. They conducted a trajectory investigation
3 and determined that that one specific camera was shot from 32
4 Midway Road, which is the residence of Daniel Sepulveda and
5 Evaristo Sepulveda's parents' house.

6 Q And what about -- do they make -- were they able to make
7 any determination with respect to the other pole camera?

8 A I don't have that information with me now.

9 Q Okay, so in addition to that, does Daniel Sepulveda have
10 any *corridos*?

11 A Yes. Doing a search of Daniel Sepulveda's phone, agents
12 discovered two phones -- or two songs that appeared to be
13 written about Daniel Sepulveda and narco-trafficking -- or drug
14 trafficking.

15 Q And when you say, "narco-trafficking," could you explain,
16 please, what the purpose of a *corrido* is?

17 A Well, in drug trafficking songs -- specifically with
18 Mexican drug cartels -- the drug traffickers like to have songs
19 written about them.

20 Q And is this -- the purpose of these songs just sort of
21 celebrate how they -- to how great they are in terms of their
22 drug trafficking?

23 A Yes. Usually songs describe violence; they describe
24 kidnappings; they describe successful narcotic smuggling
25 attempts; they describe a lot of currency that they make

1 regarding their narcotics trafficking.

2 Q Now, in terms of Daniel Sepulveda's *corridos*, did he
3 identify any individuals that are investigating him -- in his
4 *corrido*?

5 A Yes. My partners listened to the songs and they
6 identified several events that appear to be depicting Daniel
7 Sepulveda and U.S. Border Patrol.

8 Q And any specific U.S. Border Patrol individuals?

9 A Yes. One individual -- they describe white law
10 enforcement officers.

11 Q Okay, now, in addition to that, during -- when Daniel
12 Sepulveda was arrested, did he make any threats or make any
13 statements with respect to law enforcement?

14 A Yes. So when Daniel Sepulveda was being transferred -- or
15 transported from the area of his residence, after he was
16 arrested, to the DEA office, he made a statement stating that,
17 "I have ten guys over that hill."

18 So the agents related to me that they believed that
19 he was insinuating that he had other -- he had other people
20 that could possibly stop law enforcement from transporting him.

21 Q Did he make any other statements with respect to when you
22 made entrance into his property -- what he thought he would
23 have been able to do?

24 A Yeah. So at the DEA office, in McAllen, he made a
25 statement saying that agents were lucky, that if he got one of

1 his rifles, he would have least shot two agents.

2 He stated that he wasn't afraid to die, and he would
3 at least kill two agents.

4 Q Now, did he also brag to the agents with respect to how
5 many vehicles he had or how he attempts to evade law
6 enforcement?

7 A Yes. Daniel Sepulveda stated to my partners that he had
8 access to approximately 40 vehicles on a daily basis.

9 He stated that he utilizes at least five different
10 vehicles or more on a daily basis in order to avoid law
11 enforcement detection.

12 Q And is this something -- these bragging statements that
13 he's made or these statements that he's made at the time -- is
14 that something consistent that law enforcement has observed?

15 A That's correct, ma'am.

16 Q And when you say you observed it, you've observed him
17 using more than one vehicle, correct?

18 A Yes. He frequent -- Daniel Sepulveda frequently changes
19 out vehicles.

20 Q Now, in terms of Evaristo Sepulveda, what did agents find
21 in terms of narcotics when they executed the search warrant at
22 his residence, on February 5, 2020?

23 A Yeah. So when agents executed the search warrant at
24 Evaristo's residence, they located and seized approximately 200
25 grams of marijuana. It was packaged like street-level

1 distribution amounts.

2 They also seized approximately 40 grams of cocaine.
3 And next to the cocaine and marijuana was a handgun.

4 Q And were these -- were the -- was the cocaine and the
5 handgun, et cetera -- the street-level distribution, was this
6 found in a laundry room of the house?

7 A Correct, ma'am.

8 Q Now, and was he also, in terms of some of the
9 information -- in terms of his phone, what did his phone show
10 in terms of pictures of -- in terms of narcotics trafficking?

11 A And so he had a lot of pictures in his phone with smaller
12 amounts of marijuana. Then he also had numerous pictures
13 regarding marijuana bundles. They were -- were bundled. We
14 could tell it was marijuana. So it was full quantities of
15 marijuana.

16 A few days prior to him getting arrested, there was
17 a photo in his phone with a kilogram of cocaine. And Evaristo
18 Sepulveda and another subject are talking about the purchase of
19 that particular kilogram of cocaine.

20 He also had one particular video that was a drug --
21 that appears to be a drug cartel interrogation video.

22 In that video, the subject was getting his legs cut
23 off -- he was alive, getting his legs cut off. And then he was
24 getting beat with his own legs.

25 And then in another video, it appears that a

1 deceased subject is removed from the bed of a truck. The two
2 individuals then take this person from the truck and dump him,
3 it looks like, in the landfill.

4 Q Now, in terms of his phone, did you find any pictures of
5 law enforcement?

6 A Yes. He had numerous videos of law enforcement
7 helicopters flying in the air; he had numerous videos of law
8 enforcement traffic stops; and he had numerous pictures of --
9 it looks like he had pulled on the side of the road, taking
10 pictures of law enforcement or taking pictures down the street
11 that, in my experience, it appears to be the pictures of him
12 scouting for law enforcement.

13 Q Now, in terms of Juan Indalecio Garcia -- the information
14 with respect to him is that he -- how frequently does he -- at
15 one point in time, you interviewed an individual by the --
16 Americo Garcia, on January 18, 2019, correct?

17 A Yes. Following the seizure of the 320 kilograms of
18 cocaine, on January 17, the following day, myself and my
19 partners went down to 208 Midway Road, which is the residence
20 of Juan Garcia's father, Americo Garcia.

21 I spoke to Americo Garcia that day. He was very
22 cooperative and respectful. During the interview with Americo
23 Garcia, he stated that he did not know what Juan Garcia did for
24 work. He also stated he didn't know where his son lived, or he
25 didn't know what his phone number was.

1 Q And you consider that to be strange, considering that he's
2 his father, correct?

3 A Yeah, I found it very strange because he's down on his
4 property a lot.

5 Q And in addition -- so, now, in what other kinds of
6 criminal activity do we have him associated with -- Juan
7 Indalecio Garcia?

8 A So Juan Garcia -- so when we seized Daniel Sepulveda's
9 phone, on August 30th, agents discovered approximately -- we
10 knew this conversation to be Daniel Sepulveda and Juan Garcia
11 discussing narcotics, loads crossing the Rio Grande River.

12 Agents determined between approximately June and
13 August 2019, they crossed approximately ten cocaine loads.
14 Additionally, agents had observed Juan Garcia in and around the
15 area of 208 Midway Road on numerous occasions. And they also
16 observed him involved in suspected smuggling attempts.

17 In June of 2018, agents observed an ATV travel from
18 208 Midway Road and travel to the river. And it subsequently
19 traveled back. So agents -- that was a smuggling attempt where
20 agents responded.

21 This particular border patrol agent encountered Juan
22 Garcia at the residence as well as two other individuals. On
23 this date, Juan Garcia was really uncooperative.

24 Agents discovered the two ATVs next to the house, in
25 close proximity to where Juan Garcia was standing.

1 Agents observed, I guess, footprints next to one of
2 the ATVs. They followed the footprints to a barn approximately
3 30 to 40 yards away from the house. Inside the barn, they
4 found five individuals that were determined to be illegal
5 aliens.

6 In the (indisc.) close to the barn, they found and
7 apprehended another two individuals that have also been
8 determined to be illegal aliens.

9 Seven -- the seven subjects indicated that -- stated
10 to the agents that they were picked up and transported from the
11 river into the United States and taken to the house.

12 However, they could not, at the time, identify the
13 ATV that transport them or the subjects at the house.

14 Q Now, in terms of individuals involved in this narcotics
15 trafficking organization, is there an individual that the
16 Government, at one time, had an arrest warrant for and they
17 were attempting to find and had been unable to find -- an
18 individual by the name of Joaquin Sepulveda?

19 A That's correct, ma'am.

20 Q And what have we subsequently learned -- or is there an
21 ongoing investigation into the disappearance of Joaquin
22 Sepulveda?

23 A Yes. So Joaquin Sepulveda was involved in an illegal
24 alien smuggling attempt, in July 2019.

25 The vehicle that Juan received was driving during

1 that attempt was a Toyota Tacoma. And that same Toyota Tacoma
2 was present at 208 Midway Road, on the 320 kilograms of cocaine
3 was at the -- at the house.

4 Following Joaquin Sepulveda, there was a vehicle
5 chase. Agents tried to -- attempted to stop him.

6 Juan -- Joaquin Sepulveda subsequently splashed down
7 at the river, swam back into Mexico. Agents -- border patrol
8 agents arrested two illegal aliens.

9 Shortly after that, an arrest warrant was issued for
10 Joaquin Sepulveda for transportation of illegal aliens. Since
11 then, agents have not been able to find him.

12 However, since the smuggling event in July, agents
13 have interviewed and debriefed numerous sources that stated
14 that Juan Garcia and Daniel Sepulveda were involved in the
15 disappearance of Joaquin Sepulveda.

16 Q Now, the disappearance of Joaquin Sepulveda is considered
17 unusual because he has a young child, correct?

18 A Correct.

19 Q And how old would that child be?

20 A I believe now his young child would be maybe five or six
21 months old.

22 Q Okay.

23 **MS. PROFIT:** I have no further questions of this
24 agent.

25 **THE COURT:** Okay. And let me see.

1 I guess, beginning with Mr. Sanchez, did you wish to
2 ask any questions, sir?

3 **MR. SANCHEZ:** Yes, your Honor.

4 **THE COURT:** Okay.

5 **MR. SANCHEZ:** If I may.

6 **THE COURT:** And if you'd please pull the microphone a
7 little bit closer, Mr. Sanchez.

8 **CROSS EXAMINATION**

9 **BY MR. SANCHEZ:**

10 Q Officer Donahue, my name is Dan Sanchez. I'm going to be
11 asking you some questions.

12 If you don't understand my question, please let me
13 know and I'll try to clarify it for you, okay?

14 A Understood.

15 Q How long have you been investigating my client, Daniel
16 Sepulveda?

17 A Daniel Sepulveda, I believe popped up in my
18 investigation -- my investigation's been going on for
19 practically three years.

20 I would say I began getting information for -- on
21 Daniel Sepulveda approximately maybe two years ago, two and a
22 half years ago.

23 Q So for two and a half years, you've known who Daniel
24 Sepulveda is, correct?

25 A Correct.

1 Q And the event where the 320 kilograms of cocaine were
2 seized, what day was that?

3 A It was January 17, 2019.

4 Q Over a year ago; is that correct?

5 A Yes.

6 Q Okay, and you're saying that, on that day, you identified
7 my client as the driver of the ATV?

8 A Yes, your client was identified as the driver of the ATV.

9 Q Okay, and at that time, you knew who he was?

10 A I don't understand the question.

11 Q At the time that he was identified as the driver, you knew
12 who Daniel Sepulveda was?

13 **MS. PROFIT:** Your Honor, I'm going to object to this
14 line of questioning as being argumentative.

15 **THE COURT:** Well, I think he did already answer that,
16 Mr. Sanchez.

17 But you can go ahead and answer if you -- if you
18 know, Agent.

19 **THE WITNESS:** Yes. Well, I knew who he was.

20 **BY MR. SANCHEZ:**

21 Q Okay, and at that time, you said he escaped to Mexico?

22 A Yes. Following the cocaine smuggling event, yes, he swam
23 back to Mexico.

24 Q Okay, when was the next time after that that you
25 encountered Daniel Sepulveda?

1 A The next time I encountered him was probably about May
2 2019.

3 Q And on May of 2019, did you decide to arrest him for that
4 smuggling that he had done in January of 2019?

5 **MS. PROFIT:** Your Honor, I'm going to object to this
6 line of questioning. It really has no relevance.

7 **THE COURT:** Well, I understand the point he's making,
8 Ms. Profit. And I'm just going to go ahead and allow him to
9 ask some further questions on this.

10 But I get the point you're making, Mr. Sanchez. You
11 don't need to belabor it that -- that there was this
12 information and they waited until now to, you know, arrest your
13 client.

14 So I understand. And you can argue that as well
15 without, you know, asking questions that -- if that's just the
16 point you're getting to. So but that's fine.

17 I've forgotten what the last question is. You can go
18 ahead with that last question, Mr. Sanchez.

19 **BY MR. SANCHEZ:**

20 Q So just to clarify, there's been several points in time
21 that you've been able to, since the arrest and to the time that
22 he actually was arrested for this -- that you could have
23 arrested him throughout the last year, correct?

24 A No. So that's not correct.

25 It wasn't until after we started doing extensive

1 surveillance along Midway Road -- in the area of 208 Midway
2 Road, that through the -- through the partnership with U.S.
3 Border Patrol, Texas DPS, DEA, HSI, and other agencies that
4 were helping us, we were able to identify the individuals that
5 were involved in the majority of the smuggling activity in this
6 area.

7 So over several months, we identified -- I guess you
8 could say -- the players in this particular area.

9 So sometime within the last four or five months,
10 we've shown the perpetrators that were involved in that
11 seizure; we showed them pictures.

12 And the agent that was involved in that cocaine
13 seizure identified Daniel Sepulveda as the driver of the ATV
14 that crashed in the river. He actually observed Daniel
15 Sepulveda on three different occasions.

16 Q Now, you talked about a million dollars that was seized
17 back in July of 2019.

18 A Correct.

19 Q Do you have any evidence to say that my client was ever in
20 possession or had any control over that million dollars?

21 A So prior to the -- prior to that bulk currency smuggling
22 event, the vehicle that was involved in that smuggling event
23 stopped at 32 Midway Road -- which is the residence of Daniel
24 Sepulveda and Evaristo Sepulveda's parents.

25 Q And that vehicle belonged to who?

1 A Manuel Sepulveda, which is a cousin of Daniel Sepulveda
2 and Evaristo Sepulveda.

3 Q And that's the one that has a warrant for him, but you
4 can't locate him?

5 A No. That's a different individual.

6 Q Okay, so Manuel Sepulveda, that was arrested for -- or
7 charged for the possession or, I guess, money laundering of the
8 over-million dollars?

9 A Yes. He was arrested on that day for cash smuggling.

10 Q Okay, my client wasn't charged with that?

11 A No.

12 Q Okay, and the only links that you're saying he has is that
13 that truck stopped at my client's parents' home?

14 A Yes. It stopped at that house. And following the bulk
15 currency smuggling event, we did a consent search of that
16 residence.

17 And inside that residence, agents recovered
18 approximately 17 portable radios that are frequently used in
19 narcotics trafficking. They also seized wrapping material.

20 Q In addition to that, you talked about another individual;
21 Joaquin Sepulveda, correct?

22 A Correct.

23 Q And he's someone who's related to my client?

24 A I believe so. They're cousins.

25 Q Okay, and you're saying that my client was involved in his

1 disappearance?

2 A Yes. Through areas of multiple (indisc.) sources of
3 information that -- this information has been proven reliable
4 on numerous instances.

5 Those individuals stated that your client, Daniel
6 Sepulveda, was involved in the kidnapping of Joaquin Sepulveda
7 in Mexico. And it was involved in the murder of Joaquin
8 Sepulveda.

9 Q But this is the same Joaquin Sepulveda who has criminal
10 charges pending against him?

11 A Yes. There's an outstanding Federal arrest warrant for
12 the transportation of illegal aliens. And then he also has an
13 outstanding Texas State warrant for probation violation.

14 Q So he's a fugitive from the law?

15 A Correct.

16 Q And because he's got a six-month old child here in the
17 U.S., that seems odd that he would run to Mexico or run away
18 and not show up?

19 A Well, we have information that he should -- he was here
20 during the birth of his child. But he hasn't been seen since.

21 Q Okay, but Ms. Profit asked you that it wouldn't be
22 reasonable for someone who has a young child to flee and not
23 come back, correct?

24 A I feel that's really odd.

25 Q In other words, if someone has family and ties here, it's

1 not --

2 **MS. PROFIT:** Asked and answered; argumentative.

3 **BY MR. SANCHEZ:**

4 Q -- it's not likely that they would run, correct?

5 A Yeah. I think people will run, yes.

6 Q So wouldn't it make sense, then, that Joaquin Sepulveda is
7 running from his charges that he has pending because he's a
8 fugitive?

9 A No. That could make sense. But through a conversation
10 with a numerous source of information and cooperative
11 Defendants, they say that that -- he was purposely being held
12 over in Mexico and then was subsequently murdered because
13 members of the Garcia and Sepulveda families thought he had
14 been cooperating with law enforcement.

15 Q And these same people are cooperating with the Government,
16 knowing that the reason this person was killed -- or allegedly
17 killed was because he cooperated?

18 A I don't understand your question.

19 Q Well, you're wanting this Court to believe that you have
20 sources -- individuals that are cooperating and have given you
21 information that Joaquin Sepulveda was killed for fear of
22 cooperation?

23 A That's correct.

24 Q So these individuals don't have that fear, but Joaquin
25 did?

1 **MS. PROFIT:** Your Honor, if this is asking him to
2 speculate, it's also argumentative.

3 **THE COURT:** Right. There's no way he could know
4 that. I mean, he's -- you can argue those things, Mr. Sanchez,
5 also, that if you want to argue that what he's saying doesn't
6 make sense. But to ask him questions like that, it doesn't
7 really help and --

8 **MR. SANCHEZ:** Yes, your Honor. I'll move along.

9 **BY MR. SANCHEZ:**

10 Q The 40 vehicles that you said my clients used, what are
11 they? What are the makes, models; what type of vehicles is he
12 using?

13 A Your client, Daniel Sepulveda, told agents he had access
14 to 40 vehicles.

15 Personally, I don't know if he had 40 vehicles or
16 not.

17 Q Okay, well, you testified that he has many vehicles,
18 different vehicles he uses.

19 Can you tell me what they are; the ones that you're
20 aware of?

21 A No. He has numerous vehicles.

22 Q Which ones are they; the ones that you know of?

23 A Well, I don't know particular makes and models off the top
24 of my head. But I know, talking to numerous border patrol
25 agents that are constantly out there, in the area of his

1 residence, that he frequently changes his vehicles.

2 Q But you don't know what vehicles?

3 A Not the top -- off of my head.

4 Q Okay, and have any of those vehicles -- they've actually
5 been observed by these law enforcement, correct?

6 A Yes.

7 Q Your agents?

8 A Yeah. My partners have observed Daniel Sepulveda driving
9 different vehicles.

10 Q And have you-all run the license plate of those vehicles
11 to see who they belong to?

12 A I'm sure the agents did.

13 Q And who do they belong to?

14 A Sometimes they involve -- Daniel Sepulveda has a lot of
15 vehicles registered to other people.

16 Q Who are they registered to?

17 A I don't know off the top of my head.

18 Q Okay, do you know what vehicles --

19 **MS. PROFIT:** You know -- your Honor, are we getting
20 into discovery? This is a detention hearing.

21 **THE COURT:** You asked questions, Ms. Profit. And
22 Defense Counsel can ask questions also.

23 I think we're okay now.

24 You can go ahead and continue, Mr. Sanchez.

25 **MR. SANCHEZ:** Thank you, your Honor.

1 **BY MR. SANCHEZ:**

2 Q The *corridos* that you said were written for Mr. Daniel
3 Sepulveda, my client, do you -- did you hear them yourself and
4 understand them?

5 A I heard them. But I'm not fluent in Spanish. So I didn't
6 understand everything that was in the one video.

7 Q And do you have anyone that has any first-hand knowledge
8 that those actually were written for him?

9 A Well, the video was sent to him and it refers to him. And
10 my investigation identified that one of his nicknames is *La*
11 *Nino*. And the one video was called, "*La Guera y la nino*,"
12 which is -- my understanding was that it's just the (indisc.).

13 Q So they don't actually identify him by name in these
14 songs?

15 A I don't think so.

16 Q And whoever's heard of it surmising that they're about
17 him?

18 **MS. PROFIT:** Your Honor, again, I'm going to object
19 that this is argumentative.

20 **THE COURT:** I'm going to allow that question. I
21 don't think it's argumentative.

22 You can answer, if you know, Special Agent Donahue.

23 **THE WITNESS:** Yes. My partners that listened to the
24 songs believe they're about Daniel Sepulveda.

25 //

1 **BY MR. SANCHEZ:**

2 Q Okay, the ten individuals that you've mentioned that were
3 over a hill, were they ever identified?

4 A No. I don't believe they existed.

5 This is what your client told my partners while they
6 were transporting him.

7 Q Okay, and the -- several weapons were found in my client's
8 home, correct?

9 A That's correct.

10 Q Were you aware that he is licensed to carry weapons by the
11 State of Texas?

12 A No, I'm not.

13 Q You didn't identify his license to carry at all?

14 A I didn't see that.

15 Q Okay, but if he were licensed, it would make sense that
16 he'd have several weapons, correct?

17 A That's correct.

18 **MR. SANCHEZ:** Pass the witness, your Honor.

19 **THE COURT:** Okay, thank you.

20 And, Mr. Falcon, as to your client?

21 **MR. FALCON:** Yes, your Honor.

22 **THE COURT:** And, again, if you could please move that
23 microphone to you, Mr. Falcon.

24 **MR. FALCON:** Yes, your Honor.

25 May I proceed, your Honor?

1 **THE COURT:** Yes, sir.

2 **MR. FALCON:** Thank you.

3 **CROSS EXAMINATION**

4 **BY MR. FALCON:**

5 Q Good morning, Agent.

6 A Good morning, sir.

7 Q I represent Mr. Evaristo Sepulveda.

8 And so we've been talking about 320 kilos, correct?

9 A That's correct, sir.

10 Q Okay, and you just started talking about the 320 kilos
11 that were seized. But I want to go back. And I want to -- I
12 want for you to tell us what exactly happened on that day.

13 When did you first learn that there was 320 kilos
14 being smuggled?

15 **MS. PROFIT:** Your Honor, for purposes of --

16 **THE COURT:** Right. So I don't think we're going to
17 go into that much detail, Mr. Falcon, just because we could be
18 here for, you know, probably a couple weeks if we went into all
19 the aspects of the investigation.

20 It sounds like this lasted -- you know, different
21 aspects lasted over the course of years. And, you know, for
22 purposes of the bond hearing, it's really not appropriate to go
23 into, you know, discovery.

24 But if you want to ask questions that are related to
25 your client's alleged involvement with that -- and you can

1 certainly ask specifics about --

2 **MR. FALCON:** Your Honor --

3 **THE COURT:** -- that. But just asking him to go
4 through the entire thing, you know, point --

5 **MR. FALCON:** Not the --

6 **THE COURT:** -- by point --

7 **MR. FALCON:** -- entire thing, your Honor. I'm just
8 trying to find out exactly what happened.

9 Because he testified that there were 320 kilos that
10 were transported in an ATV that was allegedly being driven by
11 Mr. Daniel Sepulveda. And I want to find out exactly what
12 happened with my client.

13 **THE COURT:** Okay, if you --

14 **MR. FALCON:** How is he involved?

15 **THE COURT:** If you ask that, Mr. Falcon, that's fine.
16 But the question you asked was much broader than that.

17 It would have required him to, like, go back into the
18 beginnings of the investigation and each step leading up to
19 that, which is --

20 **MR. FALCON:** I'll make the questions more specific,
21 your Honor.

22 **THE COURT:** Yes, sir.

23 **MS. PROFIT:** Your Honor, for purposes of the
24 detention hearing, the issue is the weight of the evidence
25 against the individual.

1 **THE COURT:** Right.

2 **MS. PROFIT:** So I think that we should not be too
3 far-reaching in getting into discovery in other areas.

4 I mean, I think that they're attempting to sort of
5 try this case before the Magistrate Court.

6 **THE COURT:** Well, I just said that he can't do that.

7 But, by the same token, on direct, mister -- Special
8 Agent Donahue testified about that event and implicate
9 Mr. Falcon's client.

10 So, certainly, Mr. Falcon can ask specific questions
11 about that --

12 **MR. FALCON:** Thank you.

13 **THE COURT:** -- same event.

14 So you can go ahead.

15 **MR. FALCON:** Okay, may I proceed?

16 **THE COURT:** Yes, sir.

17 **MR. FALCON:** Thank you.

18 **BY MR. FALCON:**

19 Q Okay, so 320 kilos seized on what day?

20 A January 17, 2019.

21 Q Okay, and it's my understanding that those 320 kilos were
22 being transported and ended up at the river bank or --

23 A Yes. So the 320 kilos of cocaine was, you know, 11
24 bundles -- okay, 11 large bundles in burlap sacks.

25 So ten of those bundles were found either in the river or

1 on the river bank, right where the ATV crashed into the river.

2 One of those bundles, the 11th bundle, was found
3 approximately five yards from the house -- five to ten yards
4 from Americo Garcia's house, at 208 Midway Road.

5 Okay, and that bundle was found approximately five
6 to ten yards from where your client, Evaristo Sepulveda, and
7 Juan Garcia were standing during the smuggling event.

8 Q Okay, and was that found on a road or was that found just
9 in the brush or where was that found?

10 A The bundle was five yards from the house. It's like an
11 open area.

12 Q Okay, all right. And do you have any evidence to indicate
13 that my client had any dealing with that specific bundle?

14 A Yes. He was standing five to ten yards from the bundle,
15 in an open area.

16 Then when agents responded, he fled from the
17 residence, in a vehicle, and drove maybe 30 yards away into a
18 barn. The agent that encountered him said he was frantic. Him
19 and Juan Garcia were trying to figure out something to do.

20 So he had a bag of corn in his hand and they were --
21 he said he laid there pretending to feed the single horse they
22 observed in the barn at the time.

23 He said they were really nervous. They were dressed
24 really nice. And in his experience, they were not dressed like
25 someone that was ranching or would go to feed horses all day or

1 attend to animals.

2 Q And when you say that you were dressed, you would agree
3 with me, also, that they were not dressed in a way that would
4 indicate that they were ranching; is that what you're saying?

5 A According to the agent, yes.

6 Q Okay, now did anybody see my client handling the bundle of
7 cocaine that you just mentioned?

8 A Not that I know of.

9 Q Okay, now, you mentioned that Mr. Daniel Sepulveda was
10 identified as being the driver of the ATV, correct?

11 A Correct.

12 Q Okay, now, from the evidence that you gather, what is a
13 role that you alleged that my client had on this particular
14 date?

15 A Your client was going to receive the cocaine at the house.

16 Q Okay, and how do you know this?

17 A Well, so the agent that encountered Evaristo Sepulveda has
18 encountered him on previous occasions, okay?

19 And then your client, Evaristo Sepulveda, was also
20 arrested by border patrol, in June 2017, for transporting one
21 illegal alien.

22 Q Okay, now -- and I asked you this.

23 Do you have a confidential informant that indicated
24 to you that my client was specifically going to wait for the
25 cocaine at this particular location, or that's just your

1 conclusion?

2 A No. We don't have a confidential informant saying that he
3 was there to receive the cocaine.

4 Q Okay, and do you have any text messages or any electronic
5 data that indicates that he was going to receive the cocaine?

6 A Not that I observed so far.

7 Q Okay, now, on the particular day that the cocaine was
8 seized, was there any cell phones retrieved from my client?

9 A No.

10 Q Okay, were there any cell phones that were seized from any
11 of the other individuals that you encountered on that day?

12 A No.

13 Q Okay, now, eventually, you seized some phones.

14 And it's your allegation that there was some
15 conversations between Daniel and Juan Garcia dealing with
16 cocaine; is that correct?

17 A Correct.

18 Q Okay, now, is there any conversation in that phone that
19 involves my client with the 320 kilos of cocaine?

20 A I'm not sure. There's thousands of conversations in that
21 phone.

22 Q Okay.

23 A A lot of them are all new messages and takes a long time
24 to go through.

25 Q But as of right now, you cannot definitely tell this Court

1 that there is a conversation that deals with my client and, at
2 the same time, deals with the 320 kilos, correct?

3 A I cannot.

4 Q Okay, thank you.

5 Now, there's also a -- you gave some testimony
6 earlier about \$1.4 million that were seized, correct?

7 A Correct.

8 Q Okay, and this was also at the river banks?

9 A Correct.

10 Q Okay, now, what do you claim is my client's role with that
11 \$1.4 million?

12 A According to the source's information, your client was
13 scouting from 32 Midway Road for that particular bulk (indisc.)
14 smuggling attempt.

15 Q Okay, and on the day of the seizure, was my client ever
16 seen dealing with the 1.4, transporting it, doing anything with
17 the 1.4 million?

18 A He was not.

19 But 32 Midway Road has been identified as a scouting
20 location during smuggling events along Midway Road.

21 Q Okay, and it is through one source of information that you
22 conclude that my client was scouting?

23 A Correct.

24 Q Okay, and was my client detained on that occasion?

25 A Yes. He was encountered and detained on that location --

1 Q Did he --

2 A -- or on that -- on that day, at 32 Midway Road.

3 Q Okay, and did he give any statements incriminating himself
4 with the 1.4 million?

5 A Not that I know of.

6 According to my partners that were at that location,
7 he was being uncooperative --

8 Q Okay.

9 A -- at that point.

10 Q Okay, so he never admitted participation in the 1.4-
11 million transaction, correct?

12 A I do not know.

13 Q Okay, now, you testified that, throughout the course of
14 your investigation, there was some money that was seized from
15 Daniel's home?

16 A Correct.

17 Q Is that correct?

18 Okay, did you seize any large amounts of money from
19 Mr. Evaristo Sepulveda's home?

20 A We did not.

21 Q Okay, and you testified that what was seized was about 40
22 grams of cocaine and how much marijuana, sir?

23 A It was about -- I think approximately 200 grams.

24 Q Okay, now, also I believe that you testified that there
25 was another cell phone -- and I can't remember which one. But

1 there was a cell phone that had about ten conversations or ten
2 transactions dealing with cocaine, correct?

3 A Correct.

4 Q And within those conversations, is there any conversation
5 that involves my client dealing with those transactions?

6 A I don't know.

7 Q Okay, you also talked about some songs that were made
8 about one of the Sepulvedas, correct?

9 A Correct.

10 Q But you would agree with me that there's no songs dealing
11 about my client, right?

12 A I don't know that.

13 Q Okay, now, in your opinion, what was my client's role
14 dealing with the 320 kilos?

15 A I believe he was going to receive that cocaine and then
16 transport it to another location.

17 Q Okay, and that was based on your conclusion, correct?

18 **MS. PROFIT:** Your Honor, this has been asked and
19 answered.

20 **THE COURT:** Right. I think that one --

21 **MR. FALCON:** I'll move on.

22 **THE COURT:** -- was asked --

23 **MR. FALCON:** I'll move on.

24 //

25 //

1 **BY MR. FALCON:**

2 Q I believe also that there were some testimony that some of
3 the agents were threatened by some of the co-Defendants?

4 A That's correct.

5 Q Okay, but you would agree with me that my client never
6 made any of those threats, correct?

7 A No. I spoke to your client on that day. He was
8 cooperative.

9 Q Okay, and as far as you're concerned, my client has not
10 made any threats to any agents or to anybody, correct?

11 A No. That day I talked to him, he was respectful.

12 Q Okay, on the day that my client was arrested for this
13 case, did you seize a cell phone from him?

14 A Yes. Several cell phones were seized from the residence.

15 Q Okay, and I believe that you testified that there was some
16 videos there dealing with some -- some cartel videos. I think
17 that's what you mentioned?

18 A That's correct.

19 Q Okay, but there's nothing there that indicates that my
20 client participated in those videos, correct?

21 A Not that I found yet.

22 Q Okay, and in that particular cell phone, did you find any
23 conversations that incriminated my client with the 320 kilos?

24 A I haven't found any conversations about that yet.

25 Q Okay, were any of the -- any of the bundles -- the ten or

1 eleven bundles of cocaine that were seized, were any of those
2 tested for fingerprints or anything like that?

3 A No.

4 Q Okay, you mentioned that there was a disappearance of an
5 individual. And I think his name was Joaquin.

6 Do you have evidence that indicates that my client
7 was involved in any of that?

8 A No.

9 Q Okay, also, throughout the course of your investigation, I
10 know that you testified that my client's role was allegedly to
11 receive the cocaine at the house.

12 Is there any other information that you have that
13 involves my client with the 320 kilos, that he was going to do
14 something else?

15 **MS. PROFIT:** Your Honor, this has been asked and
16 answered, asked and answered.

17 **THE COURT:** You can answer that if you're able to.

18 **THE WITNESS:** Can you repeat the question, sir?

19 **BY MR. FALCON:**

20 Q Yes. Aside from the fact that you claim that my client
21 was going to receive the cocaine at the house -- correct?

22 A Okay.

23 Q -- is there anything else -- any other evidence that
24 indicates that he was going to do something more, dealing with
25 that cocaine?

1 Was he going to transport it; was he going to wrap
2 it; was he going to sell it; was he going to do anything else?

3 A I don't have that information. But he's been observed in
4 that same area on numerous occasions (indisc.) camera,
5 pictures, scouting.

6 Agents have observed Evaristo Sepulveda walking down
7 in the same area, scouting for law enforcement.

8 Q Okay, and I think that you testified that mister -- strike
9 that. I'm sorry. And on the date of the seizure, nobody was
10 arrested, correct?

11 A That's correct.

12 **MR. FALCON:** Pass the witness, your Honor.

13 **THE COURT:** Okay, Mr. Ramirez?

14 **MR. RAMIREZ:** Thank you.

15 **CROSS EXAMINATION**

16 **BY MR. RAMIREZ:**

17 Q Good morning, Agent Donahue.

18 A Good morning, sir.

19 Q Is that correct; Donahue?

20 A Yes, sir.

21 Q All right. My name is Gocha Allen Ramirez. And I
22 represent Juan Garcia. I just have a few questions to ask of
23 you.

24 Just want to be clear on this. You are not
25 testifying about the seizure of the 320 kilos of cocaine from

1 personal knowledge, are you? You were not there?

2 A I was not there, no. I showed up to the border patrol
3 station on that particular day.

4 Q Right. But you were not at the location where the cocaine
5 was seized on the day it was seized?

6 A That's correct.

7 Q All right. Are you aware of the fact that there was a
8 high-speed chase between law enforcement and the vehicle that
9 was transporting that cocaine?

10 A Yes, I was.

11 Q All right. Are you also aware -- or can you tell the
12 Court whether or not Juan Garcia was on that property before
13 the high-speed chase, or did he arrive after the high-speed
14 chase?

15 A The agents that I talked to that were involved in the
16 seizure, when they drove around the property, the seizure
17 happened. They didn't particularly observe Juan Garcia there.
18 But during the smuggling event, they didn't -- they also didn't
19 see any other vehicles arrive to the property.

20 So the agents believe that Juan Garcia was there
21 during the entire smuggling event.

22 Q All right. But so you can't tell the Court whether Juan -
23 - and by the way, this is -- this property where the cocaine
24 was seized is property that belongs to whom?

25 A Juan Garcia's father.

1 Q Okay, it doesn't belong to Juan Garcia, does it?

2 A Not that I know.

3 Q And there was livestock on the property; is that correct?

4 A According to agents, yes.

5 Q And you have heard testimony, when this hearing started,
6 from a witness or two that Juan Garcia would take care of that
7 livestock?

8 A Yeah. He told me. I've talked to Juan Garcia before.

9 He's told me, on a case, there are livestock on the property.

10 Q All right. And so you can't tell the Court whether or not
11 Juan Garcia was already on the property taking care of the
12 livestock before the high-speed chase or whether he arrived
13 afterwards; you really don't know, do you?

14 **MS. PROFIT:** Your Honor, that's actually been asked
15 and answered.

16 **THE COURT:** Okay, you can answer if you're able.

17 **THE WITNESS:** Well, he was obviously there during the
18 smuggling attempt because an agent encountered him --

19 **BY MR. RAMIREZ:**

20 Q Right. But there was a high --

21 A -- during the chase of the ATV.

22 Q During the chase of the ATV?

23 In other words, while the ATV was speeding through
24 that property, Juan Garcia was seen?

25 A Yes. When agents were -- when the ATV left the property,

1 more agents responded.

2 Q Okay.

3 A The agents that were responding came from the north of the
4 property.

5 Q All right.

6 A And from Business 80 -- or Expressway 83.

7 Q All right.

8 A They didn't observe any other vehicle drive into the
9 property.

10 Q Okay, so if Juan Garcia was already on the property --
11 And it wouldn't be unusual for him to be on that
12 property, would it?

13 A No. He's down there quite often.

14 Q Okay, and then there's a high-speed chase; that you-all
15 think that he's already there.

16 Is he involved in that high-speed chase in any way?

17 A Yes. He was approximately five to ten yards from where
18 the ATV turned around.

19 Q Right. But was he on the ATV?

20 A Agents did not observe him on the ATV.

21 Q Okay, did they observe him speak to anyone on the ATV?

22 A I do know that.

23 Q Okay, did they ever see the ATV stop near Juan Garcia?

24 A Yes. It stopped approximately five to ten yards from
25 where he was standing.

1 Q From where he was standing during the chase?

2 A Yes.

3 Q Okay, and did see Juan Garcia make any movements towards
4 the ATV?

5 A I can't testify to that.

6 Q Okay, now, is this the time that Juan Garcia had the sack
7 of feed in his hand?

8 A No.

9 Q Okay, when did he have the sack of feed in his hand?

10 A The agent did not observe him have anything in his hand.

11 Q Okay, when did they observe him with a sack of feed in his
12 hand?

13 A So when the ATV reached the house, the agent observed two
14 vehicles -- two subjects get off the ATV. One of the subjects
15 was Daniel Sepulveda, okay?

16 Moments later, at least three marked U.S. Border
17 Patrol vehicles responded. Two of those vehicles drove around
18 the block, to the south; the one vehicle drove to the north.

19 That individual -- the agent driving the vehicle to
20 the north then observed your client, Juan Garcia, and Evaristo
21 Sepulveda hastily get into a vehicle and then drive
22 approximately 30 yards away to a barn, okay?

23 He then approached them and encountered (indisc.)
24 subjects. He observed Evaristo Sepulveda carrying a bag of
25 what appeared to be corn feed.

1 Q Okay, and this was after the cocaine had been dropped by
2 the ATV?

3 A Yes. One bundle landed approximately five to ten yards
4 from where Juan Garcia was standing.

5 Q Okay, did anybody observe Juan Garcia touch the bundle,
6 grab the bundle; do anything with the bundle?

7 A The agents observed this -- (indisc.) observed -- because
8 it was a fluid -- fluidity of the situation, he observed just
9 movement around the ATV and he observed -- moments after agents
10 started coming, the agents believe that this individual's at
11 the house, including your client, Juan Garcia, were notified
12 that law enforcement was coming. And that is the reason why
13 they got back in the vehicle.

14 Q Okay, now, besides the fact that the ATV was on my
15 client's father's property, did you have any other -- or do you
16 have any other evidence that Juan Garcia was involved with the
17 320 kilos of cocaine, besides the fact that he was on his
18 father's property or the high-speed chase took place?

19 A Yeah. So through analysis of conversation on Daniel
20 Sepulveda's phone, your client, Daniel Sepulveda, had talked
21 about at least ten cocaine smuggling events, from June to
22 August 2019.

23 Q No. But we're talking about 320 kilos here. We're not --
24 had they been charged with other cocaine events?

25 A Not yet.

1 Q All right. I'm talking about the 320 kilo seizure that
2 we're here on today.

3 Is there any evidence that you have besides the fact
4 that he was on his father's property where this high-speed
5 chase took place, that would link him to those 320 kilos?

6 A Not at the moment. I'm still analyzing stuff.

7 Q Okay, now, are you telling the Court that the -- that
8 there were horses on this property at the time?

9 A Yes. The one border patrol agent that encountered Juan
10 Garcia stated he saw at least one horse.

11 Q Okay, did that border patrol agent even speak to
12 Mr. Garcia?

13 A Yes.

14 Q Okay, and do you know what that conversation entailed?

15 A He said it was a very short conversation.

16 He said Juan Garcia and Evaristo Sepulveda appeared
17 frantic. And they didn't -- they appeared that they didn't
18 know what they were going to do. They -- he stated that they
19 appeared to be pretending to feed the horses.

20 The conversation was extremely short because the
21 agent felt that the other agent that was chasing the ATV was in
22 danger. So he had abruptly leave Juan Garcia and Evaristo
23 Sepulveda, and then go respond to the river bank.

24 Q My question was, do you know what the conversation
25 entailed?

1 A Yes. He just talked to him briefly. And they said they
2 were there feeding the horses.

3 Q Okay, now, you've said that you also have information
4 regarding Juan Garcia and these other alleged drug offenses
5 through text messages?

6 A That's correct.

7 Q Text messages with whom?

8 A Daniel Sepulveda.

9 Q Okay, can you tell the Court -- I mean, those -- that was
10 a very vague statement.

11 Can you tell the Court -- give the Court one example
12 of a text message involving Daniel Sepulveda and Juan Garcia in
13 a drug trafficking incident?

14 A So they're talking about receiving tacos and buckets on
15 the river bank.

16 In our investigation, we identified that tacos are
17 code for "cocaine," and so are buckets.

18 Q Okay, and this is a phone that is in Juan Garcia's name?

19 A No. It's a phone seized from Daniel Sepulveda.

20 Q Okay.

21 A I don't know who is was linked back to. But the phone was
22 seized from Daniel Sepulveda.

23 Q So how is it linked to Juan Garcia; that text message?

24 A Well, the name on his -- the name that -- Daniel Sepulveda
25 talked to someone named, "Juanito," okay?

1 Q Okay.

2 A End of text messaging strings, Daniel Sepulveda sends a
3 picture of Juan Garcia. And also, Juan Garcia sends his
4 address, which is 207 (indisc.) to Daniel Sepulveda.

5 Q Okay, but the string involves a picture. You say there's
6 a picture of Juan Garcia in the stream and there's an address
7 on the stream?

8 A Yes.

9 Q Okay.

10 A During a conversation -- yeah, during the life of the
11 conversation, which is several months.

12 Q Right. But there's not anything to link the phone number
13 to Juan Garcia, is there?

14 A I don't know.

15 MS. PROFIT: Your Honor, this is getting into
16 discovery. I mean, this is just --

17 THE COURT: Okay, now, that was a --

18 MS. PROFIT: -- going very broad.

19 THE COURT: That was okay, since you brought out that
20 there were a number of these text messages that were --

21 But I don't think we need to go any further. I mean,
22 it's clear the nature of that.

23 MR. RAMIREZ: I don't intend to, Judge.

24 THE COURT: Yes, sir.

25 //

1 **BY MR. RAMIREZ:**

2 Q Now, then you -- I think you discussed some -- there was
3 some discussion of somebody shooting out cameras that DEA had
4 set up on Midway Road; is that correct?

5 A That's correct.

6 Q Okay, and you never did mention -- my client was not
7 involved in that as far as you know?

8 A As far as I know now, no.

9 Q Okay, and you also told the Court that you interviewed
10 Juan Garcia's father after this incident; I think, the day
11 after?

12 A Correct.

13 Q And you found it odd that he was not able to give you Juan
14 Garcia's address?

15 A Correct.

16 Q Okay, but he -- you didn't ask him if he knew where Juan
17 lived; you asked him for Juan's address, didn't you?

18 A No. I said where he lived.

19 Q All right. And --

20 A He said he didn't know.

21 Q He said he didn't know, okay.

22 A That's correct. So, I mean, if you don't know where
23 someone lives, I'm assuming you don't know their address.

24 Q Right. And were you aware of the fact that Juan had just
25 moved to a new location with his girlfriend?

1 A No, I'm not aware of that.

2 Q Okay, now, I think you also discussed -- and this is also
3 not something that Juan is charged with -- but the fact that
4 aliens had been discovered on his father's property?

5 A Correct.

6 Q Okay, do you any evidence that Juan Garcia was involved in
7 the smuggling of illegal aliens?

8 A Well, ATV left the property -- well, remained on the
9 property. But ATV left an area where he was standing, then
10 returned to the area where he was encountered.

11 And then it was foot sign, next to the ATV's footprints,
12 matching one of -- it was actually matching Rene Sepulveda,
13 which is Sepulveda -- Evaristo Sepulveda and Rene Sepulveda.
14 He's one of the younger brothers.

15 And he's been identified as (indisc.). That foot sign was
16 next to an ATV, which indicated to agents that that was his
17 (indisc.) ATV.

18 The ATV also traveled to the river.

19 Q Was the foots -- did the foot sign, Juan Garcia's foot
20 sign?

21 A It did not match Juan Garcia's foot sign, no.

22 Q Okay, my question was, do you have any evidence that Juan
23 Garcia was involved with the smuggling or the hiding of the
24 aliens?

25 **MS. PROFIT:** Your Honor, I think that the agent

1 should be allowed to finish his discourse. He was attempting
2 to answer the question.

3 **MR. RAMIREZ:** Well, that the problem, Judge, is that
4 he --

5 **MS. PROFIT:** And he might not have liked the answer
6 he was getting, but --

7 **MR. RAMIREZ:** It isn't discourse. And --

8 **THE COURT:** Right.

9 **MR. RAMIREZ:** -- we're supposed to do a question and
10 answer.

11 **THE COURT:** And, Special Agent Donahue, can you
12 answer the last question.

13 **THE WITNESS:** Yeah. So on that occasion, no one was
14 arrested. Juan Garcia was not arrested.

15 However, five illegal aliens, and an additional two
16 illegal aliens were located in and around a barn, approximately
17 30, 40 yards away from where you client was standing.

18 I would find that extremely odd that, if you're on
19 someone's property you don't know, that the people are 40 yards
20 away from you.

21 **BY MR. RAMIREZ:**

22 Q Is that Juan Garcia's property?

23 A That's his father's property.

24 Q Right. So it's not his property, is it?

25 A But he's down there.

1 Q Right. He's on his father's property, where he goes
2 almost --

3 MS. PROFIT: Your Honor, this is kind of
4 argumentative.

5 THE COURT: Okay, right.

6 And you can just make that argument later,
7 Mr. Ramirez. You don't need to go back and forth for the agent
8 on that part. I mean, obviously, that's -- you know what he's
9 basing it on.

10 MR. RAMIREZ: All right.

11 BY MR. RAMIREZ:

12 Q Now, let me ask you about the -- this disappearance of
13 this Mr. Sepulveda.

14 You don't have any concrete evidence that Juan
15 Garcia was involved in that disappearance, do you?

16 A Not yet, no.

17 Q Okay, the bulk seizure of over \$1.4 million; you don't
18 have any evidence that Mr. Garcia was involved with any of
19 that, do you?

20 A I do not.

21 Q Okay, you didn't find any *corridos* on Mr. Garcia's phone
22 or you haven't found any *corridos* written about him, have you?

23 A I have not yet.

24 Q Okay, there -- did you seize Mr. Garcia's phones when he
25 was arrested?

1 A I believe there was approximately nine phones seized from
2 Juan Garcia's residence.

3 Q Okay, and he lives with his wife.

4 Some of those phones belonged to his wife, did they
5 not?

6 A Well, I believe it was his girlfriend.

7 Q His girlfriend?

8 A Yes.

9 Q Okay, and did you find any pictures of drugs on those
10 phones?

11 A I haven't gone through those phones yet.

12 Q Have you found -- oh, you haven't gone through the phones.

13 So you haven't found any pictures of drugs; haven't
14 found any violent videos?

15 **MS. PROFIT:** Your Honor, asked and answered. He said
16 he hasn't gone through the phones.

17 **THE COURT:** All right. I mean, that's -- you don't
18 need to ask that since he hasn't gone through them.

19 **BY MR. RAMIREZ:**

20 Q Now, was Mr. Garcia cooperative with you when he was
21 arrested?

22 A The agents say that he was cooperative.

23 Q All right. Are you aware that he's a United States
24 citizen?

25 A I'm aware of that.

1 Q Okay, are you aware of the fact that he has no prior
2 convictions?

3 A Yes.

4 Q Okay, are you aware of the fact that no drugs were seized
5 from his home?

6 A I am.

7 Q Okay, were any threats made by Mr. Garcia to any of the
8 agents that arrested him?

9 A Not that I'm aware of.

10 Q Okay, were there any attempts to flee by Mr. Garcia?

11 A When he was arrested?

12 Q Yes.

13 A No.

14 Q Okay, there were no threats made by Mr. Garcia to the
15 agents. I want to ask you a question though.

16 Have agents offered people money to testify against
17 Mr. Garcia in Starr County?

18 A Not that I know.

19 Q Okay, are you aware of whether or not Mr. Garcia's ex-wife
20 has been offered money to testify against him?

21 **MS. PROFIT:** Your Honor, I'm going to object to any
22 line of questioning that identifies any individuals that may or
23 may not be cooperating.

24 The question was asked, has -- if he was aware if
25 anyone was being offered money to testify against Mr. Garcia.

1 That agent has answered, "No," which should encompass
2 the subsequent --

3 **THE COURT:** Right. Well --

4 **MS. PROFIT:** -- question.

5 But to the extent we're trying to get into
6 identifying people who may have been provided information,
7 we're dealing with an organization that is extremely violent
8 and the Government says, "That's discovery and it's not here."

9 **THE COURT:** Right. And I do agree that that is
10 really discovery.

11 And it also with -- you know, we were going to stay
12 far away from anything that might attempt to identify anybody
13 that might be cooperating or not cooperating or anything like
14 that that's -- you know, that type of information. As
15 discovery proceeds, it may be appropriate at some point. But
16 now is not the time for that.

17 So that is sustained.

18 **MR. RAMIREZ:** Okay.

19 **BY MR. RAMIREZ:**

20 Q With reference to Mr. Garcia's travels to Mexico, did you
21 verify his travels to Mexico?

22 A Yes. One of my partners did.

23 Q Okay, what did you find?

24 A Since late October, he has entered the United States via
25 Mexico on ten occasions.

1 Q Okay, and would that be unusual, in your opinion, for a
2 person that lives on the border to --

3 MS. PROFIT: Your Honor, he's asking the agent to
4 speculate.

5 THE COURT: Okay, yeah. I don't think that's
6 necessary.

7 I mean, you can -- it doesn't seem unusual to me,
8 Mr. Ramirez. So that's the type of argument you can make.

9 MR. RAMIREZ: Okay, that's all I have, Judge. I pass
10 the witness.

11 THE COURT: Ms. Profit?

12 MS. PROFIT: Yes.

13 REDIRECT EXAMINATION

14 BY MS. PROFIT:

15 Q In terms of a review of Daniel Sepulveda's phone, did the
16 Government find information that Juan Garcia arranges payments
17 for taxes for Americo Garcia's property, if you know?

18 A I don't remember that, no.

19 Q Okay, now, in terms of Mr. Evaristo Sepulveda, there were
20 calls, correct, in terms of his phone where he was discussing
21 the purchase of one kilogram of cocaine, correct?

22 A Yes.

23 Q That was your earlier testimony?

24 A There was text messages between Evaristo Sepulveda and
25 another subject discussing the purchase of one kilogram of

1 cocaine.

2 Q And he did have on his phone the torture videos, correct?

3 A Correct.

4 Q Now, in terms of -- and at the time of the search warrant
5 that was executed at Juan Garcia's residence, there was
6 approximately \$11,552 in United States currency that was
7 seized; is that correct?

8 A That's correct.

9 Q Now, when you talk in terms of --

10 **THE COURT:** I'm sorry. I didn't catch that. Where
11 was the 11,000 found? At who's --

12 **THE WITNESS:** That was found at 207 (indisc.), which
13 is the residence of Juan Garcia.

14 **THE COURT:** Okay.

15 **BY MS. PROFIT:**

16 Q When you talk in terms of taking care of livestock,
17 particularly with respect to the Midway property, in terms of
18 observations by agents, what has the livestock -- what purpose
19 do the agents believe that the livestock satisfies?

20 **MR. RAMIREZ:** Your Honor, I'm going to object. That
21 calls for speculation on the part of the agent.

22 **MS. PROFIT:** I think he can explain it enough so that
23 it we'll know that it's not -- the timing --

24 **THE COURT:** Okay.

25 **MS. PROFIT:** -- in terms of the goats, if you

1 would --

2 **THE COURT:** You can answer, if you're able.

3 **THE WITNESS:** So the agents that are (indisc.) that
4 frequently do surveillance in the area of 208 Midway Road, they
5 observed days, sometimes weeks, that have gone by where the
6 goats have not left the (indisc.).

7 They observed that, pretty much on every single
8 smuggling attempt that happens in the area of Midway Road, the
9 goats are released from their pens and (indisc.) walking with
10 those goats down to the river banks.

11 **BY MS. PROFIT:**

12 Q Now, in terms of Juan and (indisc.) Garcia, in terms of
13 the cell phone communications -- when there was a communication
14 in terms of Daniel Sepulveda and his wife at the time of the
15 seizure, was there any mention made of Juan Garcia at that time
16 in that communication?

17 And I'm talking about the seizure of the 320 kilograms of
18 cocaine.

19 A Yes. So during the text messages shared between Daniel
20 Sepulveda and Daniel Sepulveda's wife, on January 17, Daniel
21 Sepulveda's wife states that she's with the subject known as
22 Juanito.

23 Q And Juanito has been identified during the course of the
24 investigation as who?

25 A Juan Garcia.

1 Q And was there any suggestion that she may have picked him
2 up or rescued him in the string of the conversation?

3 A Yes. Based on the conversation, it appears that Daniel
4 Sepulveda's wife picked up Juan Garcia.

5 Q And that was on the day of the smuggling, correct?

6 A Correct.

7 MS. PROFIT: No further question.

8 THE COURT: Okay, any follow-up as to those specific
9 things?

10 MR. SANCHEZ: Yes, your Honor.

11 THE COURT: Okay, yes, sir.

12 Keep it brief, if possible.

13 **RECROSS EXAMINATION**

14 **BY MR. SANCHEZ:**

15 Q Where did she pick him up?

16 A I don't know.

17 Q And this is the same individual that was with Evaristo
18 Sepulveda in the barn?

19 A Yes, we believe so. Yes.

20 Q Did any of the agents ever see her go and pick him up at
21 the barn?

22 A An agent encountered Juan Garcia and Evaristo Sepulveda at
23 the barn, correct.

24 Q Right. But did they ever see Daniel Sepulveda's wife go
25 pick him up there, at the location?

1 A Not that I know of.

2 Q And that conversation, you found just mentions someone
3 named Juanito, but you're not sure who that is?

4 A I believe it's Juan Garcia.

5 Q That's your belief. But you're not sure who it is?

6 MS. PROFIT: Asked and answered.

7 THE COURT: Right. I don't think he -- that's
8 sustained, since --

9 MR. SANCHEZ: Okay.

10 BY MR. SANCHEZ:

11 Q So do you have any independent knowledge or proof that she
12 actually picked up Juan Garcia, the accused in this case, on
13 that day?

14 MS. PROFIT: That also has been asked and answered.

15 THE COURT: You can answer, if you know.

16 THE WITNESS: No.

17 MR. SANCHEZ: Pass the witness.

18 MR. FALCON: May I proceed, your Honor.

19 THE COURT: Yes, sir.

20 MR. FALCON: Briefly.

21 RECROSS EXAMINATION

22 BY MR. FALCON:

23 Q You talked about the sale of one kilo of cocaine, where,
24 allegedly, my client was involved, correct?

25 A Yes. The message between Evaristo Sepulveda and this

1 other subject, it happened on February 4th, which would be one
2 day prior to the search warrant and arrest of Evaristo
3 Sepulveda (indisc.).

4 Q February 4 of this year or last year?

5 A Yes. February 4, 2020.

6 Q Okay, and, of course, that was close to a year after the
7 seizure of the 320 kilos, correct?

8 A Yeah. Close to a year, yes.

9 Q Okay, you talked about one bundle that was very close to
10 my client.

11 That bundle was dropped by the ATV, correct?

12 **MS. PROFIT:** Your Honor, this is going beyond the
13 scope of redirect.

14 **THE COURT:** I think was definitely covered before.
15 But he can go ahead and answer that if it relates to something
16 that was part of redirect.

17 And I assume it does, Mr. Falcon?

18 **MR. FALCON:** Yes, your Honor.

19 **THE COURT:** Okay, you can go ahead, mister -- Agent
20 Donahue.

21 **THE WITNESS:** Can you just repeat your question, sir?

22 **BY MR. FALCON:**

23 Q Yes. So you talked about one bundle of cocaine that was
24 maybe five to ten yards from my client at the time that the 300
25 kilos -- 320 kilos were seized, correct?

1 A Yes. That one bundle contained many larger -- many other
2 bundles of cocaine.

3 Q Yes. And my question to you, was that bundle dropped by
4 the ATV?

5 A I'm assuming it fell off the ATV or it was removed from
6 the ATV by your client.

7 Q Nobody saw my client removing that bundle, correct?

8 A The agents saw -- they saw the two individuals getting off
9 the ATV, and then they saw other activity around the ATV.

10 Q But they didn't see my client removing it?

11 MS. PROFIT: Your Honor, it's been asked and answered
12 several times. And it is beyond the scope of --

13 THE COURT: Right.

14 MS. PROFIT: -- redirect.

15 THE COURT: Well, I mean, the agent could have just
16 said, "No."

17 MR. FALCON: It was just a yes or a no, your Honor.

18 THE COURT: Right.

19 MR. FALCON: That's what I'm asking; a yes or a no.

20 THE COURT: I think the answer is, "No." Correct?
21 They didn't -- they saw activity, but not specifically what he
22 was asking?

23 THE WITNESS: Yes. The agent did not observe
24 Evaristo Sepulveda remove the (indisc.).

25 MR. FALCON: Nothing further, your Honor.

1 **THE COURT:** Okay.

2 **MR. RAMIREZ:** Just a couple, Judge.

3 **THE COURT:** Yes, sir.

4 **RECROSS EXAMINATION**

5 **BY MR. RAMIREZ:**

6 Q I just wanted to clear up this last statement that you
7 gave Ms. Profit about believing that Juanito, my -- that
8 Juanito was picked up by Daniel Sepulveda's wife; is that
9 correct?

10 A Ariana Sepulveda.

11 Q Okay, was it your testimony, on direct, that Juan Garcia
12 drove from one location on the property to another, to the
13 barn, after the agents arrived?

14 A That's correct.

15 Q All right. And was that vehicle that he drove in -- was
16 that found on the property after the drugs were -- were
17 located?

18 A I don't know.

19 Q Okay, but he had a vehicle, didn't he? Obviously, he was
20 driving one.

21 A Yeah, he was driving a vehicle.

22 Q Okay, do you know why somebody would need to pick him up
23 then?

24 A I don't know if he drove from the property or he walked
25 from the property.

1 Q Okay.

2 A When other agents arrived there, they (indisc.).

3 Q Okay, did --

4 **MS. PROFIT:** That's been asked and answered, your
5 Honor.

6 **THE COURT:** You can go ahead.

7 **MR. RAMIREZ:** Thank you.

8 **BY MR. RAMIREZ:**

9 Q What leads you to believe that the Juanito mentioned in
10 that message was Juan Garcia?

11 A Was also the same individual -- Juanito is the person that
12 Daniel Sepulveda was talking to in various text messages from
13 June through August, talking about the cocaine bundles.

14 Q Well, are you aware of the fact that Daniel Sepulveda has
15 a brother-in-law named Juanito? Were you aware of that?

16 A No, I'm not.

17 **MR. RAMIREZ:** Okay, I have no further questions, your
18 Honor.

19 **THE COURT:** All right. I assume that's it.

20 We'll go ahead and -- you can step down, Agent
21 Donahue. Thank you.

22 **THE WITNESS:** Thank you, Judge.

23 **THE COURT:** And before we -- so we'll go ahead and
24 hear argument on the issue of bond as to each of the
25 Defendants.

1 Before we do that, though, I am going to take a
2 recess for a few minutes to give everybody a break for here.
3 So we'll say 10 minutes, and then we'll pick up again.

4 **THE MARSHAL:** All rise.

5 **(Recess taken)**

6 **(Requested transcription concluded at 11:32 a.m.)**
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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



Signed

April 26, 2020

Dated

TONI HUDSON, TRANSCRIBER